

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

GORDON FRANKLIN, JR.,)
Petitioner,)
vs.)
LINDA SANDERS, Warden, ¹)
United States Medical Center for)
Federal Prisoners,)
Respondent.)
No. 10-3314-CV-S-DKG

REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE

Petitioner, an inmate confined at the United States Medical Center for Federal Prisoners, has petitioned this Court for a writ of habeas corpus. The petition has been referred to the undersigned for preliminary review under 28 U.S.C. § 636(b). Because petitioner is entitled to no relief, it will be recommended that leave to proceed in forma pauperis be denied.

As grounds for relief in habeas corpus, the petitioner appears to challenge his previously-ordered commitment pursuant to the provisions of 18 U.S.C. § 4246.

A review of the files and records in this case, as well as in *United States v. Franklin*, Case No. 90-3445-CV-S-RED, establish that the defendant has been lawfully committed to the custody of the Attorney General pursuant to 18 U.S.C. § 4246. That commitment was affirmed by the United States Court of Appeals for the Eighth Circuit. *See* 04-3783. The United States has submitted

annual reports, as required by statute. Other than unsupported allegations, petitioner has failed to

¹ The current warden is the proper respondent.

establish that the commitment is invalid.²

For the foregoing reasons, it is, pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, RECOMMENDED that petitioner be denied leave to proceed in forma pauperis, and that the petition herein for writ of habeas corpus be dismissed without prejudice.

/s/ James C. England

JAMES C. ENGLAND
UNITED STATES MAGISTRATE JUDGE

Date: September 13, 2012

² Because no constitutional violation is stated, the issue of exhaustion of administrative remedies is not addressed.